

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RICKEY LEE CHATMAN, JR.,

Petitioner,

v.

STATE OF CALIFORNIA,

Respondent.

No. 1:21-cv-00802-DAD-JLT (HC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
ACTION BROUGHT UNDER 28 U.S.C.
§ 1361

(Doc. No. 5)

Petitioner Rickey Lee Chatman, Jr., is a state prisoner proceeding *pro se* and *in forma pauperis* with a petition for writ of mandamus pursuant to 28 U.S.C. § 1361. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On June 4, 2021, the assigned magistrate judge issued findings and recommendations recommending that the pending petition be dismissed because mandamus relief under § 1361 is only available to compel an officer of the United States to perform a duty owed to the petitioner where petitioner's claim is "clear and certain" and the officer's duty is "ministerial and so plainly prescribed as to be free from doubt." (Doc. No. 5 at 1–2) (quoting *Tagupa v. East-West Ctr., Inc.*, 642 F.2d 1127, 1129 (9th Cir. 1981)). The pending findings and recommendations outlined that petitioner may be attempting to seek habeas relief from his judgment of conviction obtained in state court, and federal courts are without power to issue writs of mandamus compelling the

1 performance of a state court or judicial officer of a state court. (Doc. No. 5 at 2) (citing *Demos v.*
2 *U.S. District Court*, 925 F.2d 1160, 1161–72 (9th Cir. 1991)). The pending findings and
3 recommendations were served on petitioner with notice that any objections thereto were to be
4 filed within thirty (30) days of the service. (*Id.* at 2–3.) On July 15, 2021, petitioner filed
5 objections to the magistrate judge’s findings and recommendations. (Doc. No. 6.)

6 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the court has conducted a
7 *de novo* review of the case. Having carefully reviewed the entire file, including petitioner’s
8 objections and declaration, the court concludes that the findings and recommendations are
9 supported by the record and by proper analysis.

10 In his objections, petitioner primarily reiterates his arguments regarding why he should be
11 granted the requested relief. (Doc. No. 6.) Petitioner attempts to circumvent the issues identified
12 by the pending findings and recommendations by asserting the court is empowered to adjudicate
13 this claim because he has alleged federal constitutional violations. (*Id.* at 10.) Thus, petitioner’s
14 objections do not meaningfully dispute the magistrate judge’s finding that the pending petition for
15 a writ of mandamus must be dismissed because no relief sought by petitioner can be granted
16 under 28 U.S.C. § 1361.¹

17 Accordingly,

- 18 1. The findings and recommendations issued June 4, 2021 (Doc. No. 5) are adopted
19 in full;
- 20 2. The petition for writ of mandamus pursuant to 28 U.S.C. § 1361 (Doc. No. 1) is
21 dismissed; and
- 22 3. The Clerk of the Court is directed to close this case.

23 IT IS SO ORDERED.

24 Dated: **August 16, 2021**

25 
UNITED STATES DISTRICT JUDGE

26
27
28 ¹ The denial of the pending petition for a writ of mandamus is without prejudice to the filing of a
petition for federal habeas relief if otherwise appropriate.